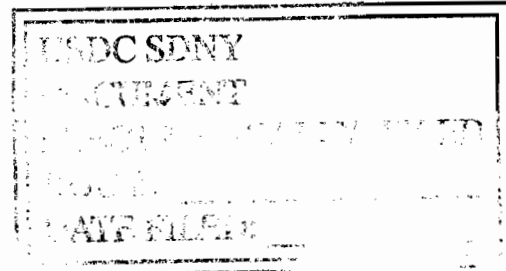


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



TERESA LARA BENAVIDEZ, et al.,  
Plaintiffs,

-against-

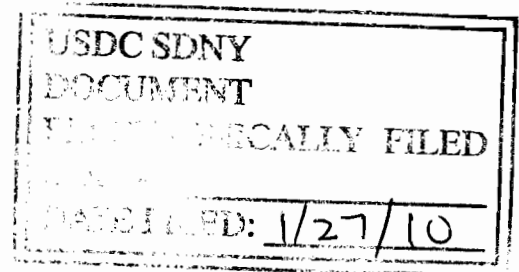
PLAZA MEXICO, INC., et al.,

Defendants.

**ORDER DENYING MOTION TO  
CERTIFY CLASS AND  
COLLECTIVE ACTION AND  
DENYING MOTION TO COMPEL**

09 Civ. 5076 (AKH)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



GUILLERMO PAEZ, et al.,

Plaintiffs,

-against-

PLAZA MEXICO, INC., et al.,

Defendants.

09 Civ. 9574 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

Plaintiffs in the above-captioned cases allege Defendants' wage and hour policies violated state and federal labor laws. After the action was initiated, Defendant Plaza Mexico, Inc. filed for Chapter 11 bankruptcy protection. Plaintiffs subsequently moved to conditionally certify a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure for the non-debtor Defendants' alleged violations of New York state labor laws, and for a collective action

under the Fair Labor Standards Act. Plaintiffs also moved under Rule 37 of the Federal Rules of Civil Procedure to compel the non-debtor Defendants to respond to certain discovery requests.

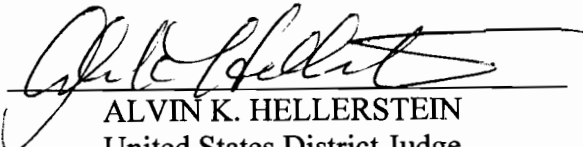
Plaintiffs' motions are denied without prejudice. Although several or all off the Defendants may be joint employers, the status of the direct employer, Plaza Mexico, Inc., is significant. Pending clarification of its status in the Bankruptcy Court, and its consequent re-appearance as a party-Defendant in this Court (if the Bankruptcy Court so orders), it is premature to determine what, if any, classes there will be. Furthermore, as I observed at the recent status conference, a Rule 23 class will require allegations focused on liability beyond that which is available to the FLSA class.

The status conference previously scheduled for Friday, February 5, 2010 is cancelled. The parties shall report by February 19, 2010 regarding the future status of Defendant Plaza Mexico as a party defendant in this Court. I will issue further directions after such submissions. Plaintiffs will also file, if necessary, an amended complaint by that time adding any parties who Plaintiffs believe may be typical in respect to a Rule 23 class.

The Clerk shall mark the motions (Doc. Nos. 45 & 49) as terminated.

SO ORDERED.

Dated: January 27, 2010  
New York, New York

  
ALVIN K. HELLERSTEIN  
United States District Judge